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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,768	06/01/2001	Thomas A. Digate	03EB-1001	7616
23465	7590	06/03/2005	EXAMINER	
JOHN S. BEULICK C/O ARMSTRONG TEASDALE, LLP ONE METROPOLITAN SQUARE SUITE 2600 ST LOUIS, MO 63102-2740			JARRETT, SCOTT L	
			ART UNIT	PAPER NUMBER
			3623	
DATE MAILED: 06/03/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/681,768

Applicant(s)

DIGATE ET AL.

Examiner

Scott L. Jarrett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/30/2001.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Specification***

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Online Performance Appraisal System and Method.

***Drawings***

2. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because a majority of the drawings are informal and/or illegible. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 3 recites the limitation "step of receiving **input data**" in Claim 1. There is insufficient antecedent basis for this limitation in the claim. Examiner interpreted the claim to read "step of receiving business information" for the purposes of examination.

Claim 5 recites the limitation "step providing the server with **a user interface**" in Claim 1. There is insufficient antecedent basis for this limitation in the claim. Examiner interpreted the claim to read "step of receiving business information from a user" for the purposes of examination.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-33 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Mann et al., U.S. Patent Publication No. 2002/0019765.

Regarding Claims 1, 11, 25, 20 Mann et al. teach a performance measurement and management system wherein the system automates the well-known 360 Degree and 90 Degree review methodologies (Paragraphs 0002, 0008).

More specifically Mann et al. teach a method and system (application, apparatus) of communicating information relating to a business objective (key area, competency, performance metric, performance standards, etc.; Paragraph 0009) between coworkers (peer, team) through the user of a network that includes at least one server (a server configured to read input data and output business objective data; Paragraph 0017; Figure 1 as shown below) and one device (at least one computer, personal digital assistance, terminal, etc.) connected via a network (Paragraph 0041; Figure 1 as shown below) comprising:

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- receiving business objective information for a user via a device (Paragraphs 0009, 0045-0046; Figures 4, 6 and 13 as shown below; Figure 7);
- storing the received information in a data storage device (memory, database, etc.; Paragraph 0025; Figure 2, Element 5)
- comparing the received information with previously stored information (Paragraphs 0008, 0047-0048);
- generating output data (feedback, performance evaluation, report, etc.) relating to the business objective information (Figure 2, Element 9, 7);
- displaying the output data to the user via a device (Figure 7); and
- a user interface on the computer configured to allow the input/receipt of business objective data (Paragraph 0009, 0045-0046; Figures 4 and 13 as shown below; Figures 6-7).

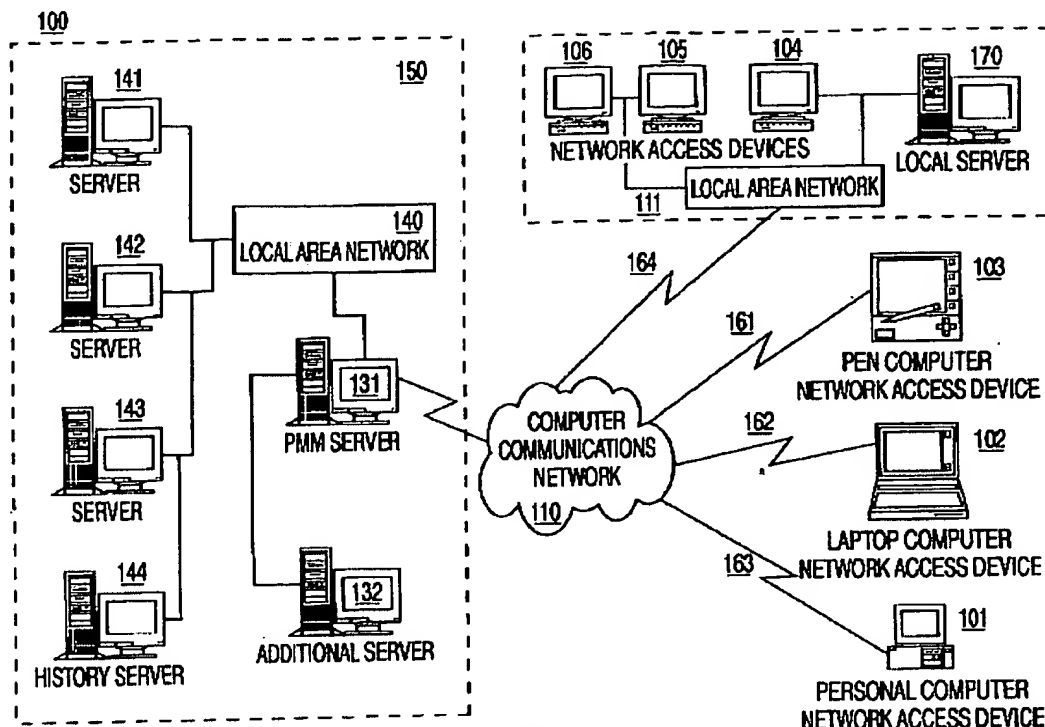


FIG. 1

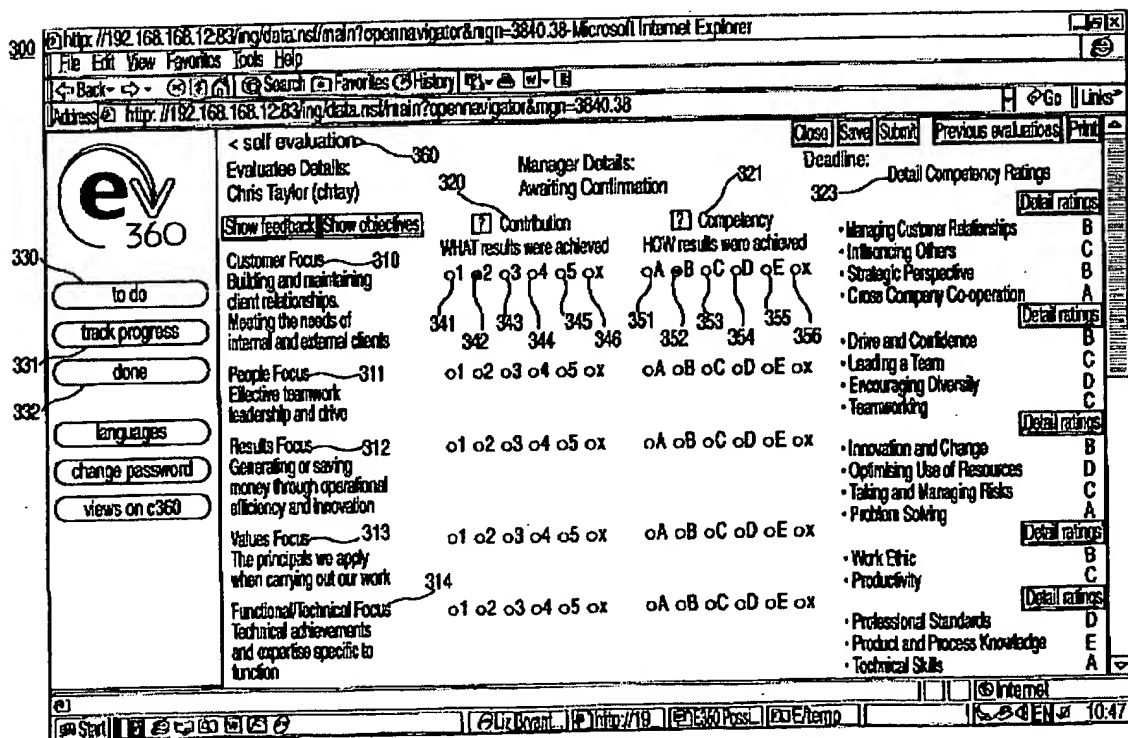


FIG. 4

700

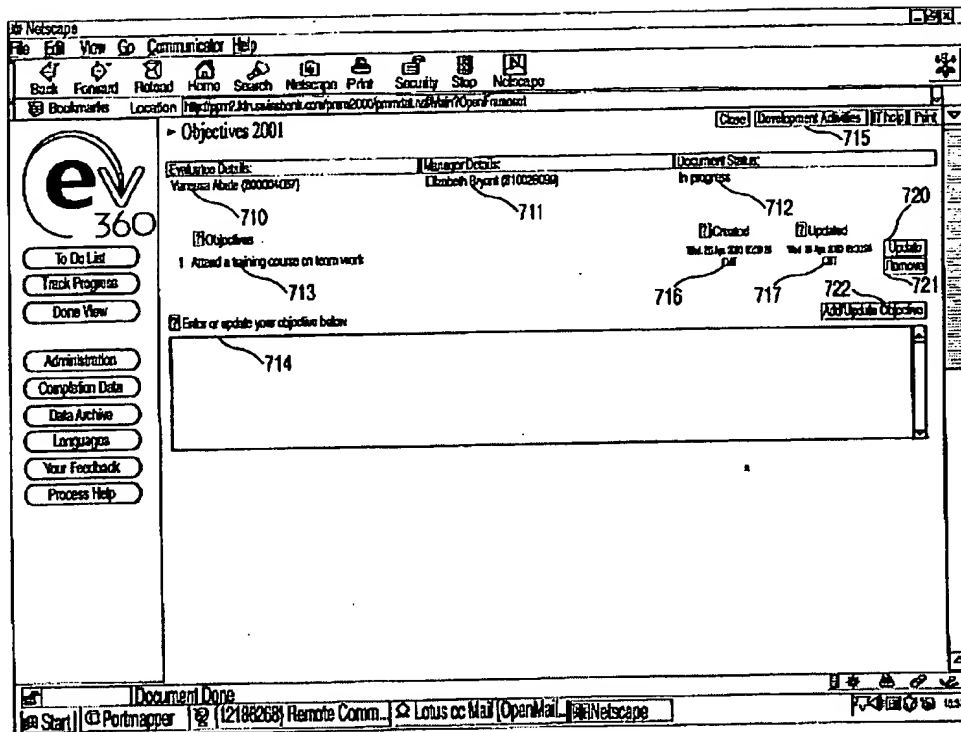


FIG. 6

1300

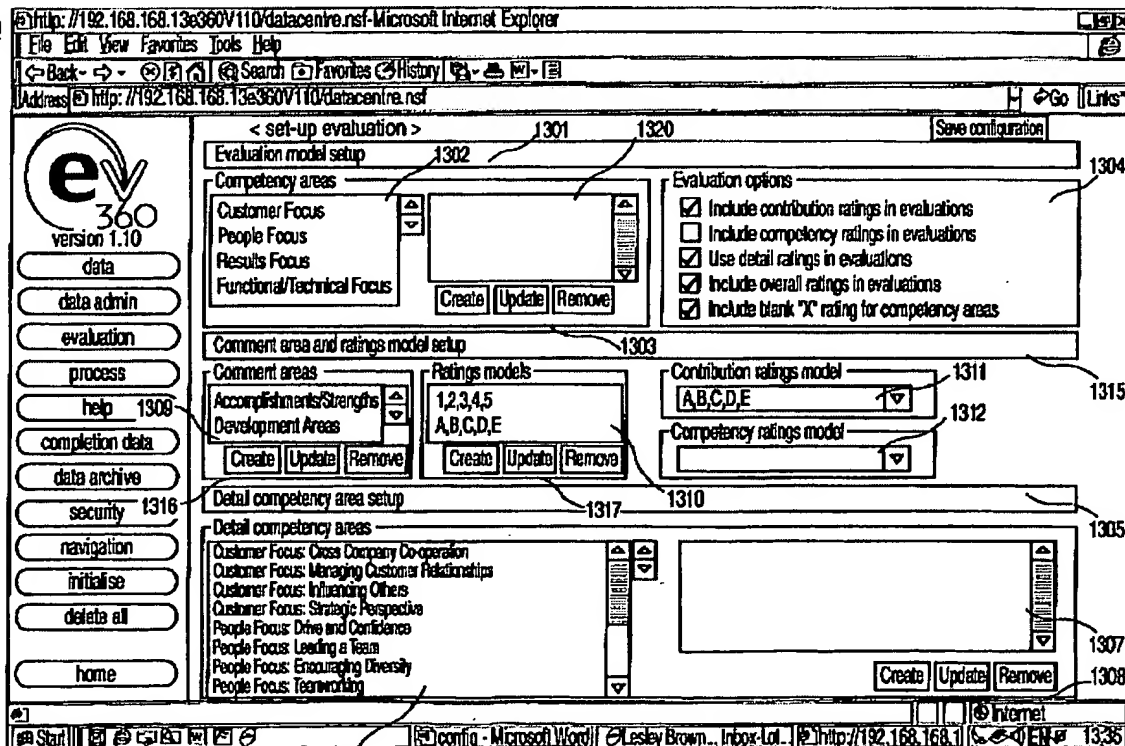


FIG. 13



Regarding Claim 2 Mann et al. teach that the method for communicating information relating to a business objective (performance evaluation, management, appraisal, assessment, etc.) further comprises receiving business information from one or more coworkers (peer-review, 360 Degree review; Paragraphs 0008, 0040, 0054).

Regarding Claims 3, 6, 10, 13, 17, 26 and 31 Mann et al. teach that the performance management system further comprises the generation of a report (feedback, evaluation) on the progress toward achieving the business objective (i.e. report summarizing progress toward an objective, progress report, assessment of progress, performance evaluation, etc.; Paragraph 0044, 0048, 0055-0058; Figures 2-3, 6).

Regarding Claim 4 Mann et al. teach a performance management system wherein workers (employee, staff, personnel) are part of a 360 Degree performance review (peer review, one or more coworkers) wherein the system provides (displays, generates reports) feedback (performance appraisal, performance evaluation) to the worker on how they are progressing/achieving the business objectives (performance metrics, measurements) as rated/evaluated by one or more their coworkers (Paragraphs 0008, 0040, 0055-0058; Figures 6-7).

Regarding Claims 5, 12, 23 and 27 Mann et al. teach a method and system for communicating information related to a business objective between coworkers (360

Degree/peer performance evaluations, reviews) wherein the performance management system further comprises the specification of a business objective by a user via a page (selection page, web page, form, electronic form, etc.; forms consisting of one or more data/input fields; Paragraph 0055; Figure 6 as shown above).

Regarding Claims 7, 14, 28 and 32 Mann et al. teaches that the performance management system and method provides performance evaluation feedback/evaluation (i.e. an appraisals of a workers performance, performance appraisal; Paragraphs 0056-0058, 0066, 0071; Figure 7).

Regarding Claims 8, 9, 15, 16, 23, 29, and 33 Mann et al. teach that the automated method and system for conducting 360 and 90 Degree reviews further comprises the assessment of progress (progress report, performance appraisal, etc.) toward a business objective (key areas, performance metrics) and displays (depicts, presents) the assessment/feedback of the progress graphically via a graphical user interface (Paragraph 0044, 0048, 0055-0058; Figure 6).

Regarding Claim 18 Mann et al. teach a method and system for communicating information relating to business objectives between coworkers wherein the server (system) is configured to store (database) input data for each of a plurality of business objectives (Paragraphs 0017, 0025, 0046; Figure 2).

Regarding Claims 19-22 Mann et al. teach that the performance management system and method enables user access/interact (i.e. input/output of data/information) with the system via a computer network including but not limited to wide area network, local area network, Internet and Intranet (Paragraph 0040; Figures 1, 3-15).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Slade et al., U.S. Patent No. 4,671,772, teach a method and system for generating performance appraisals and training.
- Slade, Michael, U.S. Patent No. 4,863,384, teaches a performance evaluation (appraisal, feedback) system and method wherein the system utilizes surveys (pre-defined forms, business objectives) to provide personalized performance appraisals (progress reports, performance evaluation, performance feedback).
- Fethe, Harold, U.S. Patent No. 5,926,794, teaches a method and system for communicating information related to a business objective between coworkers through the use of a network that includes a server, at least one computer (device) and a database for storing a plurality of data/information. Fethe further teaches that the performance appraisal system and method enables 360 Degree/peer reviews that link employee performance to business (company) objectives and further that the system utilizes a graphical user interface for displaying, capturing and presenting performance related information.
- Ibarra, David, U.S. Patent No. 6,119,097, teaches a method and system for generating performance appraisals (reviews, feedback, evaluations, etc.) wherein the system maps performance measurements to business objectives (strategies), tracks, monitors and reports on work progress toward achieving the business objectives.

- D'Alessandro, Alex F., U.S. Patent No. 6,556,974, teaches a method and system for evaluating the performance of a business over a network (Internet) wherein the system utilizes scorecards and a predetermined set of performance criteria (business objectives) stored in a database.

- Dirksen et al., U.S. Patent No. 6,853,975, teach an online method and system for managing performance appraisals (employee performance rating) wherein the web-based system (Intranet) utilizes well-known 360 Degree/peer review techniques to rate the performance of employees. Dirksen et al. further teach that employees are rated based on a plurality of business objectives (performance metrics).

- Welbourne, Theresa, U.S. Patent Publication No. 2002/0111838, teaches a method and system for organizational performance analysis (review, appraisal).

- Griffor et al., U.S. Patent Publication No. 2002/0173999, teaches a performance management system and method wherein the system communicates a plurality of information related to the achievement of business objectives (e.g. performance appraisals).

- Kaplan, Robert et al., Putting the balanced scorecard to work, teach a method for communication information relating to business objectives between workers, coworkers and businesses wherein the method, balanced scorecard, provides a framework for mapping a business' objectives to performance measures.

- Bracken, David et al., High-tech 360, teach an online performance appraisal system and method (a method and system for communicating information related to business objectives between coworkers) wherein the system utilizes the well known

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technique of 360 Degree reviews (peer/team performance appraisals, reviews, feedback, evaluations, assessments, etc.) methodology to generate reports assessing a workers progress toward a plurality of defined business objectives (goals, strategies, performance metrics, etc.).

- Meyer, Gary, 360 on the Net, teaches an online (Internet or Intranet) method and system for conducting performance appraisals using the well-known method/technique of 360 Degree reviews. Meyer further teaches that the method and system for communicating information relating to a business objective between coworkers further generates a plurality of individualized reports (appraisal, summaries) that are replete with scatter grams, gap analysis and other data-interpreting charts thereby enabling workers to asses their progress towards goals related to a plurality of business objectives.

- Huet-Cox et al., Get the most from 360-degree feedback, teach a method and system for conducting performance appraisals (reviews, feedback, reports, assessments, evaluations, etc.) over the Internet/Intranet utilizing the 360 Degree (peer review) performance assessment (measurement) method/technique.

- Gautrea, Andrew et al, Recent Trends in Performance Measurement Systems, teach the plurality of well known and commercially available performance management systems, the prevalent use of balanced score cards and the importance of linking business objectives (strategies, goals, etc.) to some form of measurement.

- Mottl, Judith, Appraisal Software Ends HR Paper Chase, teaches a plurality of commercially available methods and systems for communicating information related to

a business objective between coworkers over the Internet (i.e. online performance appraisal systems).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott L. Jarrett whose telephone number is (571) 272-7033. The examiner can normally be reached on Monday-Friday, 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hafiz Tariq can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

5/26/2005  
SJ



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